



Memorandum

TO: COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Leslye Krutko

SUBJECT: STATUS REPORT ON
FORECLOSURE

DATE: October 8, 2010

Approved

Date

10/7/10

RECOMMENDATION

It is recommended that the Community and Economic Development Committee accept the status report on foreclosure efforts in San Jose. Housing department and Code Enforcement staff will make a brief presentation at the meeting and be available for questions.

DISCUSSION

The housing market has given mixed messages in 2010. While some signs indicate that the housing market has stabilized, other data suggest that housing values may continue to fall due to unemployment and a weak overall economy, thereby starting another wave of foreclosures. A new wave has not yet happened. Across California and Santa Clara County, the rate of foreclosure filings (which includes the Notice of Default, Auction Sale, and REO filings) has dropped since 2009. In San Jose, the total number of foreclosure filings decreased an average of 1,380 filings per month in 2009 to just over 950 per month in the first half of 2010.

The slight decrease in foreclosure filings may be due to two factors. First, Santa Clara County experienced an increase in the number of cancellations in the foreclosure process due to an increase in either short sales or successful loan modifications that have allowed families to stay in their homes (Source: ForeclosureRadar). This provides a faint bright spot in the foreclosure picture. The second factor that may have led to lower foreclosure filings is the increasing length of time taken for a family in default to lose its home. While it took 183 days between the filing of a Notice of Default and a foreclosure sale in August 2009, by June 2010 it took 274 days (Source: ForeclosureRadar). Although this may provide the short-term benefit of keeping families in their homes before repossession, it also suggests that the foreclosure problem is only being delayed rather than being fixed.

Nevertheless, the foreclosure crisis continues to be a significant problem for San José residents, especially in certain neighborhoods. The top five zip codes in terms of the number of foreclosure filings between January 1 and June 30, 2010 are: 95127 (505 filings); 95123 (504 filings); 95111 (478 filings); 95116 (390 filings); 95122 (376 filings). These zip codes comprise five out of the top twelve zip codes in Santa Clara County for the neighborhoods most highly impacted by foreclosures. Similar to 2009, most homeowners facing foreclosure in 2010 were in danger of losing their homes.

because of unemployment due to the weak economy. Anecdotal evidence from partner foreclosure counseling agencies have also shown that homeowners receiving trial loan modifications from lenders are falling back into foreclosure either because of job loss or reduction in pay, or because trial loan modifications were too similar to previous, unsustainable mortgage payments.

Additionally, the City's affordable housing loan portfolio has continued to experience loss due to foreclosures and short sales. To date, there have been 29 foreclosures and four short sales, representing a loss of \$2,466,444 in revenue to the City. Of this amount, \$1,485,576, or 60%, is deferred revenue to the City generated from the Inclusionary program. These loans were not originally funded by the City, but were anticipated as revenue when the units sold at a future date. Based on the City's current portfolio of 1,788 loans, this loss represents 1% of the total portfolio. At present, there are an additional 26 foreclosure filing notifications and 10 short sale requests pending.

This update focuses on the four key elements of the foreclosure response:

Prevention

- 1. ForeclosureHELP Assistance Center** – The Center, located in the Parkmoor Work2Future offices, provides the initial point of entry into foreclosure mitigation process. Clients may drop-in into the center, but typically call to arrange an appointment with ForeclosureHELP Center staff or volunteers from the Santa Clara County Association of Realtors (SCCAOR) and California Association of Mortgage Professionals(CAMP). At this stage, clients are assisted with loan modification documentation packaging, information and referrals services for homeless prevention, employment and legal services, and referral to HUD-certified counselors qualified to provide advice on options to foreclosure. This service is possible due to the collaborative efforts of the 65 volunteers who average approximately 260 hours of assistance per month of foreclosure prevention assistance. Due to the limited number of HUD-certified counselors in Santa Clara County, this assistance is critical in assisting clients through this extremely traumatic process. In collaboration with Destination:Home, the Center is also a referral source linking clients to emergency financial assistance to rapidly re-house families losing their homes through foreclosure.

Since its opening in May of 2009, the Center has assisted over 1465 clients with information and referral services, facilitated 45 loan modifications, recovered \$5,500 from a loan modification rescue scam, and sent 296 loan modification packages to HUD Housing agencies. In addition 271 referrals were made to non-profit agencies, 68 families sent to One Stop, and 185 clients were referred directly to HUD or out of county agencies.

In July, a temporary ForeclosureHELP Center was opened at City Hall to support and assist City of San Jose employees impacted by the City's budget deficit. Over the two-month period, approximately 35 employees were assisted with eight employees submitting loan modification packages to HUD certified counseling agencies. Some employees are waiting to see how well they are able to cope with their reduction in income and will contact the Center if assistance is needed.

In addition to the temporary City Hall ForeclosureHELP Center, the Housing Department and SCCOAR hosted four informational workshops designed to provide City employees with specific information about foreclosure. The workshops included topics on the foreclosure process itself, options to foreclosure including deed-in-lieu and short sales, the role of non-profit HUD certified counseling assistance. Over 150 people attended the four workshops. The Housing Department will continue to provide City staff with resources and information through the City's intranet site and payroll flyers. The ForeclosureHELP Center at Work2Future will remain available to all San Jose residents.

1. **Education and Outreach** – Education and outreach remain a key component to the City's foreclosure prevention efforts. Since May of this year, City foreclosure prevention staff have either attended or presented foreclosure information at sixteen events throughout the city. Events include presentations sponsored by faith based organizations such as the Cathedral of Faith, New Harvest Christian Church, and Most Holy Trinity Church. Other events included community fairs such as the August 20th Job Fair sponsored by People Acting in community Together (PACT) and the Vietnamese American Bar Association of Northern California held on September 18th. Outreach scheduled for late September and October include the SOMOS Mayfair neighborhood event scheduled for September 30th at the Mexican Heritage Center and a Federal Reserve meeting in October. In addition to providing information on foreclosure assistance; presentations include warnings about the growing number of foreclosure scams. Earlier this year, the Santa Clara County District Attorneys office began sending Foreclosure Fraud alerts to all property owners who have received a Notice of Default. The letters warn owners of potential scams and direct property owners to various, legitimate foreclosure assistance hotlines including the ForeclosureHelp Center.

Intervention

ForeclosureHelp Center Assistance– Since the ForeclosureHelp Center opened in early 2009, over 800 homeowners have received either legal assistance or HUD counseling through the Center. As a result, at least 45 homeowners have been approved for modification and nine others are currently in the loan modification trial period. In spite of ongoing foreclosure guidance from HUD certified counselors and enhancements to federal programs such as HAMP, some banks continue to reject homeowners for loan modification and refinance request; often in the middle of approved modification trial periods. There are several efforts to change this trend such as new proposed legislation and new federal enhancements (detailed below) to encourage banks to work with homeowners and require consistency in the industry when reviewing and approving loan modifications.

Neighborhoods

1. **Code Enforcement Efforts** – Code Enforcement continues to receive complaints of vacant foreclosed homes, and is committed to responding to those complaints within 72 hours. Since July 1, 2010, Code Enforcement has responded to 60 complaints, issued 60 administrative citations and performed 21 abatements. The abatements generally include the board-up of the unsecured structure and/or cutting of overgrown/hazardous vegetation. The property owner is billed for any abatement costs, including staff time incurred by Code Enforcement. In

addition, 30 property owners, including banks/lenders, have been ordered to register their properties in the *Neglected Vacant or Abandoned Building Monitoring Program*, which allows the City of San Jose to recoup staff costs for inspecting and abating these properties on a quarterly basis in order to ensure continued compliance with City health and safety codes.

- 2. Neighborhood Stabilization Program (NSP)** – On August 30th, the San Jose NSP Consortium, consisting of the Housing Trust of Santa Clara County, Neighborhood Housing Services of Silicon Valley, and the City's Housing Department, held a media event at one of the homes purchased and rehabilitated for resale through the Neighborhood Stabilization Program. The event was held to celebrate the successes of NSP 1 and to kick-off the \$25 million NSP 2 program. The event was attended by Congresswoman Zoe Lofgren, Council members Ash Kalra, Madison Nguyen, and Rose Herrera, and representatives from Congressman Mike Honda's offices and the Department of Housing and Urban Development (HUD).

- a. NSP 1 – In March 2009, the City of San Jose received a \$5.6 million award under the Housing and Economic Recovery Act of 2008 to help mitigate the decline of neighborhoods most affected by foreclosed and abandoned homes. As of September 9th, the NSP 1 funds were fully obligated, which meets the funding award requirements. In turn, on September 9th proceeds from the sale of these homes were immediately reinvested towards acquiring, rehabilitating and reselling additional distressed foreclosed properties. (see chart below for NSP 1 Activities)

NSP 1 Activity	Number of Home Purchased	Funds Obligated
Single-family homes	12 homes	\$1,532,000
Multi-family buildings	2 buildings - 8 units	\$3,696,283
Administrative		\$400,000
Total	20 units	\$5,628,283

NSP 2 – In February 2009, the City of San Jose Housing Department, in a consortium with the Housing Trust of Santa Clara County and Neighborhood Housing Services Silicon Valley, received \$25 million for the acquisition, rehabilitation, and resale of abandoned foreclosed homes under the federal American Recovery and Reinvestment Act (ARRA). Under NSP 2, a minimum of 105 vacant and foreclosed homes will be assisted through this program . Additionally, 100 foreclosed homes will be purchased with the assistance of NSP Purchase Assistance Loans (PAL). On August 14th, the Housing Department published a Request for Proposal seeking up to four development entities to provide ARRA services. It is anticipated that a contract(s) will be executed before the end of the 2010 calendar year. The NSP Consortium anticipates that a Notice of Funding Availability (NOFA) will be published before the end of September to identify ARR projects to meet the NSP 2 requirements to utilize 25% of the overall grant to households earning 50% or less of the Areas Median Income.

Legislation and Policy

1. **State Legislation** – A recent survey by the California Reinvestment Coalition confirmed what many of the local foreclosure counseling agencies have experienced: that HAMP, the federal foreclosure prevention program, is not working as well as it needs to be in order to keep families in their homes. The survey identified ongoing problems with mortgage servicer mistakes including noncompliance, lost documentation, and incidents of foreclosures while homeowners are in the middle of modification trial periods. As a result, senators Steinberg and Leno introduced a Senate Bill (SB 1275) to help prevent unnecessary foreclosures in California. The Bill outlined specific rights and remedies for consumers working their way through the loan modification process. As of August 30, 2010, SB 1275 did not pass through the Assembly Appropriations Committee. The City's Housing Department will continue to monitor and review proposed legislation related to foreclosure.
2. **Federal Program Enhancements** – Since June, the Federal government has announced two new enhancements to existing programs targeted toward foreclosure prevention:
 - a. **Homeowners Struggling with Unemployment** - The Obama Administration announced in August that through the existing Housing Finance Agency (HFA) Innovation Fund for the Hardest Hit Housing Markets (the Hardest Hit Fund), the U.S. Department of the Treasury will make \$2 billion of additional assistance available for HFA programs for homeowners struggling to make their mortgage payments due to unemployment. Additionally, the U.S. Department of Housing and Urban Development (HUD) will soon launch a complementary \$1 million Emergency Homeowners Loan Program to provide assistance – for up to 24 months – to homeowners who are at risk of foreclosure and have experienced a substantial reduction in income due to involuntary unemployment, underemployment, or a medical condition.
 - b. **FHA Short Refinance Option** – HUD announced in early September that, in an effort to help responsible homeowners who owe more on their mortgage than the value of their property, the U.S. Department of Housing and Urban Development will begin providing an additional refinancing option for underwater borrowers. Originally announced in March, this enhancement of Federal Housing Administration (FHA) refinance program will offer certain 'underwater' non-FHA borrowers who are current on their existing mortgage and whose lien holders agree to write off at least ten percent of the unpaid principal balance of the first mortgage, the opportunity to qualify for a new FHA-insured mortgage.
3. **City Investment Policy** – In response to questions from several Council members regarding the City's relationship with banking institutions and their response to foreclosures in San Jose, the City's Director of Finance distributed an informational memorandum addressing these concerns. The Memorandum outlined the complexities of the City's finance structure, the City's relationship with lending institutions, and the implementation of changes to City's Investment Policy approved by City Council in December of 2009. The Policy is meant to encourage banks who have financial dealings with the City to increase their participation in modification efforts. In addition to implementing the new "Social Responsibility – Foreclosure Mitigation" section of the Investment Policy, the City's Department of Finance is committed to

proactively working with the major lenders doing business with San Jose including Bank of America, Wells Fargo and JP Morgan Chase. City staff has already met with representatives from Bank of America (BofA) to discuss their foreclosure response including loan modifications through the HAMP program and BofA funded modifications. Meetings with Wells Fargo and JP Morgan Chase have been scheduled for late October.

NEXT STEPS

- 1. Foreclosure Task Force** – Housing Department staff continue to coordinate regular meetings with the Foreclosure Task Force. The Task Force is a coalition of industry and community leaders, including representatives from housing and foreclosure counseling agencies, non profit legal advisors, and real estate professionals. Additionally, the Task Force functions as an advisory forum that works together to share information, coordinate marketing and outreach efforts, and advise City staff on foreclosure policy. Priorities for the Task Force's 2010-11 work plan include further marketing of the ForeclosureHelp Center and to finalize the Task Force structure, including the governing board members and executive committee members
- 2. Best Practices** – To ensure that the City continues to be a leader in the foreclosure response, Housing Department staff regularly review best practices of other agencies. Staff is evaluating the foreclosure efforts of approximately 30 leading agencies throughout the nation using the evaluation framework discussed in this memo.

Within the next two months, staff will complete its evaluation and develop a revised foreclosure prevention strategy based on the applicability of best practices to the specific needs of the City of San Jose. The Housing Department will provide the City Council with an information memo regarding its revised strategy, or if necessary, return to City Council for approval of the updated plan.

During this time, the Housing Department will continue its existing foreclosure prevention efforts, monitor foreclosure trends, and provide a coordinated education effort to our community on foreclosures.

COORDINATION

This report has been coordinated with Planning, Building and Code Enforcement and the City's Department of Finance.

/s/

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